

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
SIXTIETH LEGISLATURE

SIXTY-SEVENTH LEGISLATIVE DAY
THURSDAY, MARCH 19, 2009

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senator Werk, absent and formally excused by the Chair; and Senators Coiner and Pearce, absent and excused.

Prayer was offered by Chaplain Henry Webb.

The Pledge of Allegiance was led by Katrina Clayson, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 18, 2009, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senator Pearce was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SCR 110 BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE; SUPPORTING AND ENCOURAGING ALL GOVERNMENT AND BUSINESS EMPLOYERS IN THE DEVELOPMENT AND IMPLEMENTATION OF TELEWORK POLICIES AND PROGRAMS FOR THEIR EMPLOYEES AND ENCOURAGING THE CONTINUED EXPLORATION AND, TO THE EXTENT FEASIBLE WITHIN AVAILABLE RESOURCES, ASSISTANCE IN THE IMPROVEMENT AND AVAILABILITY OF THE APPROPRIATE TECHNOLOGY INFRASTRUCTURE WHICH WILL AID EMPLOYERS AND THEIR EMPLOYEES IN MAXIMIZING THE FULL

POTENTIAL DEPLOYMENT OF TELEWORK WITHIN THE STATE OF IDAHO.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, studies show that work from home, or at work sites geographically convenient to the residence of the employee, also known as telework, has untapped potential to address the need for significant reductions in energy consumption, carbon dioxide emissions and traffic congestion, and provides a viable alternative to relocation of workforce to facilities outside the United States for businesses seeking to reduce costs; and

WHEREAS, although such studies also show that nearly 30 percent of employees work at home at least one day per month, and nearly 45 percent have worked from home at some time, evidence indicates that more workers want to telework and are even willing to accept less pay to do so; and

WHEREAS, the ability to telework increases leisure time and boosts morale and productivity, as well as enables those who are elderly, disabled or have children in the home to participate more effectively in the workforce; and

WHEREAS, telework also benefits those who choose to, or must, commute or use the roadway system, through the resulting reduction in traffic congestion and less time spent on the road by teleworkers; and

WHEREAS, a workforce that is capable of teleworking on a regular basis is also more capable of maintaining continuity of operations in the face of a natural disaster, terrorist attack, or other emergency situation; and

WHEREAS, increased traffic, increased congestion and reduced air quality are of increasing concern and cost to the commerce of Idaho and the individual lives of Idahoans; and

WHEREAS, if we fail to take positive steps to improve air quality in our communities, it is likely that portions of Idaho will be designated as air quality nonattainment areas by the United States Environmental Protection Agency (EPA); and

WHEREAS, a nonattainment designation for an area has a negative impact on economic development in such areas, and the resultant federally mandated government oversight and imposition of expensive and time consuming requirements to improve air quality to meet federal standards will be very costly to the citizens of Idaho; and

WHEREAS, traditional solutions such as building roads or alternative transportation systems such as light rail are expensive, cannot be done quickly, generally impact only targeted corridor areas and oftentimes require ongoing subsidies; and

WHEREAS, traditional employer-employee relationships, coupled with manufacturing and other location dependent jobs, require use of the transportation system to move the employee to the job. An information based economy coupled with more flexible employer-employee arrangements enables many jobs to be moved to the employee through the use of technology; and

WHEREAS, to achieve the full benefits of telework, it is essential that a strategy be developed to promote and increase its use as a proactive, efficient, widespread and low-cost solution to aid in reducing traffic and congestion, and to achieve necessary improvement of air quality and the resulting avoidance of an EPA nonattainment designation, at far greater speed and with far lower cost than other traditional options.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature does hereby support and encourage all government and business employers in the development and implementation of telework policies and programs for their employees.

BE IT FURTHER RESOLVED that the Governor of the State of Idaho and the Idaho Legislature are hereby encouraged to continue the exploration and, to the extent feasible within available resources, assistance in the improvement and availability of the appropriate technology infrastructure which will aid employers and their employees in maximizing the full potential deployment of telework within the state of Idaho.

[SCR 110](#) was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

Senator Coiner was recorded present at this order of business.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

March 19, 2009

The JUDICIARY AND RULES Committee reports that [S 1157](#) has been correctly printed.

DARRINGTON, Chairman

[S 1157](#) was referred to the State Affairs Committee.

March 18, 2009

The JUDICIARY AND RULES Committee reports that Enrolled [S 1043](#), [S 1056](#), as amended, [S 1062](#), [S 1070](#), [S 1073](#), [S 1075](#), [S 1080](#), and [S 1091](#) were delivered to the Office of the Governor at 3:30 p.m., March 18, 2009.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

March 19, 2009

The AGRICULTURAL AFFAIRS Committee reports out [SCR 109](#) with the recommendation that it do pass.

CORDER, Chairman

[SCR 109](#) was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

March 18, 2009

Dear Mr. President:

I transmit herewith Enrolled [H 36](#), [H 37](#), [H 83](#), [H 51](#), and [H 102](#) for the signature of the President.

ALEXANDER, Chief Clerk

The President Pro Tempore signed Enrolled [H 36](#), [H 37](#), [H 83](#), [H 51](#), and [H 102](#) and ordered them returned to the House.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President Pro Tempore announced that the Education Committee report relative to the Gubernatorial appointment of Gayle L. O'Donahue was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Pearce, seconded by Senator Fulcher, the Gubernatorial appointment of Gayle L. O'Donahue as a member of the Public Charter School Commission was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President Pro Tempore announced that the Education Committee report relative to the Gubernatorial appointment of Gayann DeMordaunt was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Winder, seconded by Senator Kelly, the Gubernatorial appointment of Gayann DeMordaunt as a member of the Public Charter School Commission was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1158

BY FINANCE COMMITTEE

AN ACT

RELATING TO THE MEDICALLY INDIGENT; AMENDING SECTION 20-605, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 31-3302, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 31-3501, IDAHO CODE, TO INCLUDE THE DEPARTMENT OF HEALTH AND WELFARE IN THE DECLARATION OF POLICY; AMENDING SECTION 31-3502, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 31-3503, IDAHO CODE, TO REVISE THE POWERS AND DUTIES OF BOARDS OF COUNTY COMMISSIONERS AND TO REMOVE OBSOLETE PROVISIONS; AMENDING SECTION 31-3503A, IDAHO CODE, TO REVISE POWERS AND DUTIES OF THE ADMINISTRATOR, TO REMOVE OBSOLETE PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 35, TITLE

31, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 31-3503C, 31-3503D, 31-3503E AND 31-3503F, IDAHO CODE, TO PROVIDE POWERS AND DUTIES OF THE DEPARTMENT, TO PROVIDE FOR COUNTY PARTICIPATION AND CONTRIBUTION, TO PROVIDE FOR MEDICAID ELIGIBILITY DETERMINATION AND TO PROVIDE FOR A MEDICAL HOME; AMENDING SECTION 31-3504, IDAHO CODE, TO PROVIDE AN EXCEPTION TO AN APPLICATION PURSUANT TO THE SECTION, TO REMOVE A PROVISION REGARDING A UNIFORM FORM AGREED TO BY CERTAIN PARTIES, TO PROVIDE THAT AN APPLICATION SHALL BE DEEMED AS CERTAIN CONSENT, TO PROVIDE A TIME FOR THE CLERK'S TRANSMISSION OF A COPY OF THE APPLICATION TO THE DEPARTMENT, TO CLARIFY LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-3505, IDAHO CODE, TO PROVIDE A TIME FOR FILING AN APPLICATION IF A CERTAIN REQUEST HAS BEEN DENIED BY THE DEPARTMENT; AMENDING SECTION 31-3505B, IDAHO CODE, TO REVISE THE LIMITATION ON COUNTY PAYMENT FOR A MEDICALLY INDIGENT RESIDENT; AMENDING SECTION 31-3507, IDAHO CODE, TO PROVIDE FOR A HOSPITAL'S NOTIFICATION TO THE DEPARTMENT FOLLOWING AN INITIAL REVIEW DETERMINATION, TO PROVIDE FOR TRANSFER OF A MEDICALLY INDIGENT PERSON BY THE DEPARTMENT UNDER CERTAIN CIRCUMSTANCES AND TO PROVIDE FOR DEPARTMENT NONLIABILITY UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 31-3508, IDAHO CODE, TO REVISE THE RATE THE COUNTY MUST PAY FOR NECESSARY MEDICAL SERVICES OF A MEDICALLY INDIGENT PERSON AND TO REMOVE A CODE REFERENCE; AMENDING SECTION 31-3509, IDAHO CODE, TO REVISE TO WHOM A PROVIDER MUST SUBMIT ITS BILL, TO PROVIDE THE PURPOSE FOR SUBMISSION OF A BILL, TO REVISE TO WHOM CERTAIN PAYMENTS ARE TO BE PAID, TO PROVIDE FOR THE DISTRIBUTION OF PAYMENTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-3510, IDAHO CODE, TO PERMIT THE DEPARTMENT TO PURSUE CERTAIN SUBROGATION INTERESTS; AMENDING SECTION 31-3511, IDAHO CODE, TO PROVIDE CERTAIN VIOLATIONS AND PENALTIES IF A CERTAIN PERSON GIVES OR OMIT'S GIVING CERTAIN INFORMATION TO THE DEPARTMENT OR FAILS TO COOPERATE WITH THE DEPARTMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-3517, IDAHO CODE, TO PROVIDE FOR A LIMITATION TO COUNTY RESPONSIBILITY UNDER THE CATASTROPHIC HEALTH CARE COST PROGRAM, TO REVISE THE COMPOSITION OF AND APPOINTMENT TO THE CATASTROPHIC HEALTH CARE COST PROGRAM BOARD, TO REMOVE CERTAIN CONTRACT AUTHORITY OF THE ADMINISTRATOR, TO REMOVE CERTAIN RULEMAKING AUTHORITY AND TO REVISE CERTAIN AUDIT RESPONSIBILITY; AMENDING SECTION 31-3518, IDAHO CODE, TO PROVIDE CERTAIN ADMINISTRATIVE RULEMAKING AUTHORITY; AMENDING SECTION 31-3519, IDAHO CODE, TO PROVIDE FOR SUBMISSION OF CERTAIN CLAIMS TO THE DEPARTMENT FOLLOWING A FINAL DETERMINATION BY THE COUNTY, TO PROVIDE FOR A DEPARTMENT CLAIM PROCESSING PROCEDURE AND FOR TIMELINES, TO REMOVE CERTAIN CLERK RESPONSIBILITIES AND TIMELINES AND TO REVISE THE AMOUNT A COUNTY

IS OBLIGATED TO PAY; AMENDING SECTION 31-3553, IDAHO CODE, TO CORRECT A CODE REFERENCE; AMENDING SECTION 67-7903, IDAHO CODE, TO CORRECT A CODE REFERENCE; AND TO PROVIDE LEGISLATIVE INTENT.

S 1159

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE FOR A CALCULATION OF SUPPORT UNITS FOR CERTAIN SCHOOL DISTRICTS.

S 1160

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE DIRECTOR OF THE IDAHO TRANSPORTATION DEPARTMENT; AMENDING SECTION 40-503, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO TRANSPORTATION DEPARTMENT SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE AND TO CORRECT A CODIFIER'S ERROR; AMENDING SECTION 40-505, IDAHO CODE, TO CLARIFY APPLICATION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 59-904, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO TRANSPORTATION DEPARTMENT SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE AND TO MAKE A TECHNICAL CORRECTION.

S 1161

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE ELECTRONIC RECORDING COMMISSION; AMENDING SECTION 31-2905, IDAHO CODE, TO PROVIDE FOR LOCATION OF THE COMMISSION IN THE OFFICE OF THE SECRETARY OF STATE AND TO PROVIDE A CERTAIN DUTY OF THE COMMISSION MEMBERS.

[S 1158](#), [S 1159](#), [S 1160](#), and [S 1161](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

[H 147](#), by Transportation and Defense Committee, was read the second time at length and filed for third reading.

[S 1146](#), by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

[H 145](#), as amended, by Health and Welfare Committee, was read the second time at length and filed for third reading.

[H 110](#), [H 111](#), and [H 112](#), by Business Committee, were read the second time at length and filed for third reading. Consent Calendar.

H 160, as amended, by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

H 108, H 113, H 115, H 188, H 189, H 190, and H 191, by Business Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1142 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Winder. Total - 34.

NAYS—None.

Absent and excused—Werk. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared S 1142 passed, title was approved, and the bill ordered transmitted to the House.

H 99 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Winder. Total - 34.

NAYS—None.

Absent and excused—Werk. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared H 99 passed, title was approved, and the bill ordered returned to the House.

H 100 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Winder. Total - 34.

NAYS—None.

Absent and excused—Werk. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared H 100 passed, title was approved, and the bill ordered returned to the House.

H 121 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bilyeu arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Darrington, Fulcher, Geddes, Goedde, Heinrich, Hill, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Pearce, Sagness (Malepeai), Schroeder, Smyser, Thorson (Stennett), Winder. Total - 27.

NAYS—Corder, Davis, Hammond, Jorgenson, Mortimer, Siddoway, Stegner. Total - 7.

Absent and excused—Werk. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared H 121 passed, title was approved, and the bill ordered returned to the House.

H 119 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Winder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Siddoway, Smyser, Stegner, Thorson (Stennett), Winder. Total - 31.

NAYS—Kelly, LeFavour, Schroeder. Total - 3.

Absent and excused—Werk. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared H 119 passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Kelly, by voice vote, the Senate adjourned at 12:15 p.m. until the hour of 10:30 a.m., Friday, March 20, 2009.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary